

FREMONT BOARD OF SELECTMEN

01 JULY 2008

APPROVED 07/10/2008

At 6:00 pm the Board's meeting was called to order. Present were Selectmen Gene Cordes, Donald Gates Jr, and Brett Hunter; Town Administrator Heidi Carlson. Guerwood Holmes came into the meeting at 6:03 pm.

There was an initial discussion about toters and trash collection as it has again consumed all of the staff's office time this week.

Holmes met with the Board to see if they would consider buying a roller and trailer to haul it as they are running into problems with renting them. Many places do not carry them, and when they find them, they are run down and do not run well.

Gates asked what kind of return would we get on the investment. Holmes did not know at this time. Holmes described having to fix an area that was caved in, and the need for a roller. He said the only place he could rent one right now (easily) was East Coast Lumber, but theirs did not run well.

Cordes asked how often they would use a roller. He said he would be using one now a lot on the north side as they are doing paving and filling crevices. He said they have thus far spent about \$2,000 on renting one this year. Holmes said it was more about the convenience of getting one than the money, because it was hard to get one that is reliable. He also said the rain ruins the schedule, because you rent it and then can't use it if it rains. It is about \$200 by the day or \$400 by the week.

Holmes had a quote for a used one, including the roller and a trailer, of \$7,000. This is a 1.25 ton roller.

Holmes said that if he did not do it this year, he said he really felt it would be important for next year. Cordes said he would also like to investigate a new one, and see what warranty provisions there are for new and used.

Holmes explained how he does the smaller paving projects now, without all of the equipment specifically made for that.

Cordes asked where it would be stored, and Holmes thought that it would likely be stored at the shed and covered with a tarp for the time being.

The Board asked for Holmes to do some additional research and get other quotes for new and used rollers.

The Board then discussed the repairs needed at the highway shed. Gary Dzioba will come out to look at it on Thursday, as Dzioba Construction initially built the building. Carlson is also preparing to file an insurance claim so that NH LGC can come out and have an adjustor look at the damage.

Holmes then discussed account line items for paving projects and transferring money from the tree removal budget line item. Selectmen felt this was acceptable as being charged out as hottop and included with the budget line item of hottop/cold patch. Carlson will be sure the budget line reads hottop and cold patch. There was discussion about the amount of money to be transferred from the tree line. Current pending bills are about \$5,600 but Carlson will check a current budget report and get back to the Board with a number for the transfer amount next week.

At 6:30 pm Cynthia McRae was not present for the Public Hearing Continuation of Barn Discretionary Easement Public Hearing continued from June 19, 2008. The Selectmen continued their meeting with the Road Agent and will reopen the public hearing at the conclusion. There were no other members of the public present.

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The Board talked with Holmes about the work on North Road. Carlson had spoken again today with Bill Rollins. Richard Ladd is scheduled perhaps next week, but more likely the week after, to do the preliminary survey work. The Town would like to schedule a meeting once that preliminary work is done, to review it and discuss the upcoming work plan.

Holmes asked where the funding for this project would come from, and the Board said the Highway budget. Holmes expressed concern about the final costs for the work, as it is unbudgeted.

Holmes said that he felt the drainage needed improvement in the area and a guardrail was needed for safety reasons.

To continue this effort, Holmes needs to make a list of any and all work necessary on North Road so it can be included in the Scenic Road Public Hearing. The Planning Board needs to hold the Scenic Road public hearing before any work can be done.

Carlson will get a note out to the Miller's to give them an update, and hopefully a tabletop meeting can be scheduled for the week of July 14th.

At 6:45 pm Selectmen reopened the Continued Public Hearing for Cynthia McRae's Barn Discretionary Easement. With the applicant not present, and the Town not having any additional information from her, motion was made by Gates and seconded by Hunter to recess the Public Hearing again to July 17, 2008 at 7:30 pm. Ms McRae will be notified.

At 7:00 pm there were no Department Heads present.

OLD BUSINESS

1. Selectmen reviewed the minutes of 26 June 2008. A sentence on page two needs to be completed; and a couple of sentences reworked. Motion was made by Gates to approve them as amended. Hunter seconded and the vote was approved 2-0-1 with Gates abstaining.

2. Carlson updated the Board on tax deed matters. There are two owners who have not responded to the Board's last letter, meaning that at least these two properties are subject to the deed process, and we have had no contact with the owners. The Board discussed having the Collector review the file and bring it back to the next meeting in terms of the next step in the process. The Tax Collector can provide information on the timing and when notifications and such were completed. The Board also asked for the information about whether there is a mortgage on the property. This too, can be requested from the Tax Collector as it is part of the lien/deed notification process.

3. Update on Waste Management toters – the Friday delivery route is done (all residents on that route have their toter). They expect to be finished by Wednesday evening. Waste Management will have a truck picking up on Thursday and Saturday that can accommodate toters and bags, so everyone's trash will be picked up.

One hundred new recycling bins were picked up on Monday so we would not run out before the holiday. An additional order will need to be placed for bins. That new supply (picked up Monday) is almost exhausted now.

NEW BUSINESS

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1. Carlson advised the Board that Larry Morse brought in a four-shelf AV cart for use for future cable broadcasting equipment. It is currently stored at the Town Hall in the basement.
2. Selectmen reviewed the accounts payable manifest dated June 30, 2008 in the amount of \$37,647.38. Motion was made by Gates and seconded by Hunter to approve the manifest in the amount of \$37,647.38. The vote was unanimously approved 3-0.
3. Selectmen reviewed outgoing correspondence to summer camp staff members Jen Jaquith, Lydia McPherson, Lauren Lennon, Lauren Lyons, Amelia Winchell, Abby Pelletier, and Alisha Lorenzo regarding their appointments and rate of pay. Gates read aloud the names of each candidate and Hunter moved to approve each of the letters. Gates seconded and the vote was unanimously approved 3-0.
4. Selectmen reviewed the folder of incoming correspondence.
5. Selectmen reviewed a request dropped off today, from Albert Witham to the Town for him to have a street light installed at the corner of Route 107 and Christopher Lane to address traffic conditions in the area. The Board was not clear if the light would be on the Witham property or on Route 107, and did not want the Town to assume any cost for said light, either in construction/installation or in monthly maintenance or charges. There was discussion about lighting being part of the Site Plan Review Process, and the Board directed the concern back to the Planning / Zoning and Code Enforcement departments. A letter will be drafted to Mr Witham, with copies to the other departments.
6. Selectmen reviewed an email from Frank Bettencourt Jr (Chuck Bettencourt) regarding a meeting with the Board to discuss the grandfathered status of parcel 02-029, which was formerly the Exeter River Camping Area. The Board indicated that the non-conformance status of the property was determined by the best possible source, a letter on record from the property owner at the time, Frank Bettencourt Sr. The Board said that Mr Bettencourt Jr could come in and meet with them and indicated he should submit a letter in advance of the meeting; and should bring any documentation he feels he needs to present his opinion.
7. Selectmen reviewed and signed outgoing correspondence including memos to the Cable Committee and Keith Stanton.
8. Cordes read through all of the Veteran Credit Applications ready for approval this evening:

Kevin O'Neil	10B Rum Hollow	06-023.004.00B
Thomas Repczynski	96 North Road	06-017
Bruce Courage	86 Danville Road	02-058.004
Donald Boss	34 Midnight Sun Drive	05-004.028
Alfred Michalowski	32 Country Lane	03-001.001.49B
Stephen Devine	5 Vetter Drive	06-011.001.004
Michael Paquin	32 Frost Lane	03-054.001.032
Claude Hiltz	10 Rowe Drive	03-076

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With all in order, Gates moved to approve the list of eight veterans as read. Hunter seconded and the vote was unanimously approved 3-0.

At 9:00 pm the Board took a five minute recess. The meeting returned to session at 9:05 pm.

At this time, the Board undertook a page by page review of the Cable contract draft presented by Peter Epstein.

This review included the following comments by section. Additions and changes are underlined.

Article 1 Definitions

Section 1.1

(12) Department of Public Works ("DPW"): The Department of Public Works and Highways of the Town of Fremont NH. (Fremont currently only has a Highway Department).

Add a definition for Aerial Mile

Article 2 Grant of Renewal Franchise

Section 2.2 Term of Renewal Franchise

Term to be 10 years

Article 3 Transfer and Assignment of Renewal Franchise

Question posed as to the status of a stock transfer or an acquisition of control of the company, and how that is / should be included or defined?

Article 5 Construction, Installation, Line Extension and Maintenance Standards

Section 5.2 Service Available to All Residents

- (a) fine as written, the Town's intent is to have cable service available to all residents
- (b) fine as written, using 200 feet for installation

Section 5.3 Line Extension

- (a) use 20 Subscribers per aerial mile and 25 per underground mile
- (c) The Town shall make its best efforts to notify the franchisee, including, without limitation, having the Planning Board so notify the Franchisee, in advance whenever new developments are under consideration by Town agencies.

Section 5.6 Tree Trimming

In the installation of amplifiers, poles, other appliances or equipment and in stringing of cables and/or wires as authorized herein, the Franchisee shall avoid all unnecessary damage and/or injury to any and all shade trees in and along the streets, alleys, public ways and places, and private property in the Town. The Franchisee shall comply with all generally applicable rules and/or regulations established by the Franchising Authority or its designee, and the laws of the State of New Hampshire, during the term of this Renewal Franchise regarding tree and/or root trimming and/or pruning.

Section 5.7 Restoration to Prior Condition

Whenever the Franchisee takes up or disturbs any pavement, sidewalk or other improvement of any Public Way or place, the same shall be replaced and the surface restored in as good condition as before

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entry as soon as practicable. If the Franchisee fails to make such restoration within a reasonable time, the Franchising Authority may fix a reasonable time for such restoration and repairs and shall notify the Franchisee in writing of the restoration and repairs required and the time fixed for performance thereof. Upon failure of the Franchisee to comply within the specified time period, the Franchising Authority may cause proper restoration and repairs to be made and the reasonable expense of such work shall be paid by the Franchisee upon demand by the Franchising Authority. Failing which, the Town shall have remedy by collecting on the Performance Bond pursuant to Section 10.2 herein.

Section 5.12 Cable System Maps

(a) Annually, the Franchise shall file with the Franchising Authority strand maps of the Cable System plant. Said strand maps shall include the routing of the cable system, including underground and aerial plant.

(b) Annually, the Franchisee shall file with the Franchising Authority remove “for inspection” “as-built” maps of all Cable System plant.

Article 6 Services and Programming

Section 6.6 – Question arose in section (a) as to whether or not this includes private kindergarten?

(b) Upon written request of the Franchising Authority, the Franchisee shall provide additional Drops and the Basic Service and the next level of programming Service to those public institutions and private schools located along its cable routes, but not listed in **Exhibit 2**. The Franchisee shall discuss the location of each connection with the proper officials of each of the institutions entitled to such free Drop and Basic Service, prior to the installation of said Drop. If any additional services are desired, the specified location shall pay just the difference over Basic Service and the next level of programming Service.

Article 8 Franchise Fees

Section 8.1 Franchise Fee Payments

(e) The Board wanted to include this language as presented to be able to consider amendments to the franchise fee.

Section 8.6 Method of Payment – All payments by the franchisee to the Franchising Authority pursuant to this Article 8 shall be made payable to the Town of Fremont.

Article 10 Insurance and Bonds

Section 10.1 Insurance

(1) A general comprehensive liability policy naming the Franchising Authority, the Town of Fremont, its officers, boards, volunteers, committees, commissions, agents and employees as additional insured on all claims on account of injury to or death of a Person or Persons occasioned by the construction, installation, maintenance or operation of the Cable System or alleged to have been so occasioned, with a minimum liability of One Million Dollars (\$1,000,000.00) for injury or death to any one Person in any one occurrence.

Section 10.2 Performance Bond

(a) Selectmen felt that a \$50,000 performance bond was an acceptable figure.

Section 10.3 Reporting

The Franchisee shall maintain on file at all times with the Franchising Authority, or its designee(s), remove “upon request” copies of all current certificates regarding (i) all insurance policies as required herein, and (ii) the performance bond as required herein.

Section 10.4 Indemnification

The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the Franchising Authority, the Town, its officials, boards, commissions, volunteers, committees, agents and/or employees against all claims for damage due to the actions of the Franchisee, its employees, officers or agents arising out of the construction, installation, maintenance, operation and/or removal of the Cable Television System under the Renewal Franchise, including without limitation, damage to Persons or property, both real and personal, caused by the construction, installation, operation, maintenance and/or removal of any structure, equipment, wire or cable installed. Indemnified expenses shall include all reasonable attorneys' fees and costs incurred up to such time that the Franchisee assumes defense of any action hereunder. The Franchising Authority shall give the Franchisee timely written notice of its obligation to indemnify and defend the Franchising Authority. Any settlement requiring Town remuneration must be with the advance, written consent of the Franchising Authority, which shall not be unreasonably denied.

Article 12 Determination of Breach Liquidated Damages – Franchise Revocation

Section 12.2 Liquidated Damages

Add an item (8) For failure to maintain on file at all times, current Insurance Certificates and the Performance Bond as outlined in Article 10 herein, Fifty Dollars (\$50.00) per day that said Insurance Certificates and Performance Bond are not on file as required.

Add an item (9) For failure to maintain on file at all times, maps as outlined in Section 5.12 herein, Fifty Dollars (\$50.00) per day that said maps are not on file as required.

Article 14 Reports, Audits and Performance Tests

Section 14.2 Financial Reports

(b) Remove “If requested in writing,” A list of officers and members of the Board of Directors of the Franchisee and its parent, if any.

Section 14.3---Cable System Information

Remove “Upon written request,” The Franchisee shall file annually with the Franchising Authority a statistical summary of the operations of the Cable System. Said report shall include, but not be limited to, (i) the number of Basic Service Subscribers, (ii) the number of dwelling units passed, and (iii) the number of plant miles in construction/upgrade or completed.

Section 14.4 In-House Telephone Reports

Remove “Upon written request,” On a semi-annual basis, the Franchisee shall make available to the Franchising Authority telephone reports that track the activity and effectiveness, on a regional basis, of the Franchisee's telephone system.

Section 14.7 Annual Performance Tests

Remove “Upon request,” Annually the Franchisee shall provide copies of its Fremont Cable System performance tests to the Franchising Authority in accordance with FCC regulations, as set out in 47 C.F.R. Section 76.601 et seq.

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- (a) Remove “Upon written request, and” Pursuant to Section 14.1(b), the Franchisee shall make available to the Town, copies of any petitions or communications with any State or federal agency or commission pertaining to any material aspect of the Cable System operation hereunder.

After completing the review, Selectmen instructed Carlson to get this information back to Attorney Epstein. They will await the next step in the process.

At 9:50 pm Acting Fire Chief Richard Butler came into the meeting to report on an incident from earlier this evening. He also indicated the personnel available for the duty this weekend. Butler left the meeting just before 10:00 pm.

NEXT WEEK

The next regular Board meeting will be held on Thursday July 10, 2008 at 6:00 pm.

All Town Offices will be closed on July 4, 2008 in observance of Independence Day.

With no further business to come before the Board, motion was made by Hunter and seconded by Gates to adjourn the meeting at 10:01 pm. The vote was unanimously approved 3-0.

Respectfully submitted,

Heidi Carlson
Town Administrator